

courtdocs@dickinsonwright.com

Katherine Anderson Sanchez, SBN 030051
DICKINSON WRIGHT PLLC
1850 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
Phone: (602) 285-5000
Fax: (844) 670-6009
ksanchez@dickinsonwright.com
Attorneys for Plaintiff Wells Fargo Bank, NA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Wells Fargo Bank, N.A.,
Plaintiff,

v.

PenbenLA, a California entity, Equa
Gaming, an Arizona general partnership,
Victor Carrillo, an individual, Dana M.
Brannan, an individual, and Does I-X,
Defendants.

Case No. 2:17-02492-PHX-DJH

**SEPARATE STATEMENT OF FACTS
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT AS TO
DEFENDANT FERRUGGIO
INSURANCE SERVICES OF L.A.
DOING BUSINESS AS PENBENLA
ON COUNT ONE**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff Wells Fargo Bank, N.A. (the “Plaintiff” or “Wells Fargo”), by and through undersigned counsel, respectfully submits its Separate Statement of Facts in Support of Plaintiff’s Motion for Summary Judgment as to Defendant Ferruccio Insurance Services of L.A., Inc. doing business as PenbenLA (“Defendant”) as follows:

Statement of Facts

1. On or about August 28, 2009, Equa Gaming, an Arizona general partnership

1 (“Equa Gaming”), opened a business account ending in 4583 at Wells Fargo (the “Account”).

2 **Exhibit A.**

3 2. Victor Carrillo (“Carrillo”) and Dana Brannan (“Brannan”) signed the
4 application for the Account as owners/key individuals. Exhibit A.

5 3. Carrillo had been a customer of Wells Fargo since approximately May 28, 2004.
6 Exhibit A.

7 4. On or about March 12, 2016, Defendant issued check number 2630 drawn upon
8 Pacific Western Bank and made payable to Equa Gaming in the amount of \$100,000.00 (the
9 “Check”). **Exhibit B, Exhibit C** at 14:18-15:3; 18:15-23.

10 5. The Check was signed by an authorized representative of Defendant. Exhibit C
11 at 18:19-23.

12 6. On March 12, 2016, Defendant deposited the Check into the Account at a Wells
13 Fargo branch in Culver City, California. Exhibit C at 14:21-22; 18:19-23; 29:17-23 (depo
14 transcript), **Exhibit D**, Bank statement.

15 7. Wells Fargo accepted the Check for deposit in to the Account. Exhibit A.

16 8. Wells Fargo is currently in possession of an Image Replacement Document
17 (“IRD”) of the Check and has been in possession of the IRD for the Check at all relevant times.
18 Exhibit A.

19 9. Defendant deposited the Check for the stated purpose of causing \$100,000 to be
20 immediately available to Equa Gaming. Exhibit C at 25:11-25.

21 10. The Check bore no apparent evidence of forgery or alteration. Exhibit A.

22 11. On or about March 14, 2016, the Check was posted to the Account. The funds
23 were available for withdrawal on March 15, 2016. Exhibit A, Exhibit B, Exhibit D.

24 12. After March 14, 2016 various debits and withdrawals were made from the
25 Account. Exhibit D.

26 13. Upon information and belief on March 15 or 16, 2016, Defendant directed
Pacific Western Bank to stop payment on the Check. Exhibit C at 33:7-9.

14. On or about March 16, 2016, the Check was returned unpaid from Pacific Western Bank. Exhibit A, Exhibit D.

DATED: August 1, 2018

DICKINSON WRIGHT PLLC

By: /s/ Katherine Anderson Sanchez

Katherine Anderson Sanchez

1850 N. Central Avenue, Suite 1400

Phoenix, AZ 85004

(602) 285-5000

Attorneys for the Plaintiff Wells Fargo Bank, N.A.

Copies of the foregoing served via email and U.S. Mail this 1st day of August, 2018 on:

SCOTT A SWINSON PA

Scott A Swinson

2400 E Arizona Biltmore Cir.,
Ste. 1300

Phoenix, AZ 85016-2195

scott@swinsonlawaz.com

*Attorneys for Defendant Ferruccio Insurance
Services of L.A., Inc. dba PenbenLA*

/s/ Janet Hawkins

PHOENIX 16019-70 482517v1